

§§ 1980.415–1980.418

other fees or charges shall not be paid from loan proceeds.

[52 FR 6501, Mar. 4, 1987, as amended at 53 FR 45258, Nov. 9, 1988]

§§ 1980.415–1980.418 [Reserved]

§ 1980.419 Eligible lenders.

[See Subpart A, § 1980.13.]

Administrative

A. *Par (a) of Subpart A, § 1980.13* requires National Office approval for any variations.

B. *Par (b)(4) of Subpart A, § 1980.13*, State Director submits information to National Office with recommendations.

C. With prior written approval of the FmHA or its successor agency under Public Law 103-354 National Office, a new eligible lender may be substituted for the original lender provided the new lender agrees to assume all original loan requirements including liabilities, servicing responsibilities and acquiring legal title to the unguaranteed portion of the loan. Such approval will be granted by the National Office only when a lender discontinues lending operations or other extreme situations require a substitution of lender. If approved by the National Office, the State Director will submit to the Finance Office Form FmHA or its successor agency under Public Law 103-354 1980-42. "Notice of Substitution of Lender."

§ 1980.420 Loan guarantee limits.

The percentage of guarantee, up to the maximum allowed by this section, is a matter of negotiation between the lender and FmHA or its successor agency under Public Law 103-354.

(a) For loans of \$2 million or less, the maximum percentage of guarantee is 90 percent.

(b) For loans over \$2 million but not over \$5 million, the maximum percentage of guarantee is 80 percent.

(c) For loans in excess of \$5 million, the maximum percentage of guarantee is 70 percent.

(d) Lenders and borrowers will propose the percentage of guarantee. FmHA or its successor agency under Public Law 103-354 informs lenders and borrowers in writing on Form FmHA or its successor agency under Public Law 103-354 449-14 of any percentage of guarantee less than proposed by the lender and borrower, and the reasons therefore. FmHA or its successor agency under Public Law 103-354 determines the percentage of guarantee after con-

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sidering all credit factors involved, including but not limited to:

(1) *Borrower's management*. The borrower's management, and when appropriate, equity capital, history of operation, marketing plan, raw material requirements, and availability of necessary supporting utilities and services;

(2) *Collateral*. Collateral for the loan;

(3) *Financial condition*. Financial condition of borrower or borrower's principals, if appropriate;

(4) *Lender's exposure*. The lender's exposure before and after the loan, and any applicable limits on the lender's lending authority; and

(5) *Trends and conditions*. Current trends and economic conditions.

[53 FR 40401, Oct. 17, 1988]

§§ 1980.421–1980.422 [Reserved]

§ 1980.423 Interest rates.

(a) *Guaranteed loans*. Rates will be negotiated between the lender and the borrower. They may be either fixed or variable as long as they are legal. Interest rates will be those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to FmHA or its successor agency under Public Law 103-354 review and approval. Should any part of the loan(s) be sold by the lender, FmHA or its successor agency under Public Law 103-354, in its analysis, will take into consideration in approving the lender's interest rate, the rate at which guaranteed loans are being sold or traded in the secondary market.

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a recognized national or regional financial publication specifically agreed to by the lender and borrower. The variable interest rate may be adjusted at different intervals during the term of the loan but the adjustments may not be more often than quarterly. The intervals between interest rate adjustments will be specified in the Loan Agreement. The lender must incorporate within the variable rate promissory note at loan closing, the provision for adjustment of payment installments coincident with an